

**Introduced by Senator Scott**February 10, 2005

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An act to add Section 14602.8 to the Vehicle Code, relating to vehicles.

## LEGISLATIVE COUNSEL'S DIGEST

SB 207, as introduced, Scott. Vehicles:  
driving-under-the-influence: impoundment.

(1) Existing law provides that a peace officer or, in certain other cases, a magistrate, may cause the removal and seizure of a vehicle, under certain circumstances, as specified. Existing law provides that a vehicle so seized may be impounded for 30 days.

This bill would authorize a peace officer to immediately cause the removal and seizure of a vehicle from a person who meets certain circumstances relating to driving a motor vehicle while under the influence of alcohol or drugs, or both (DUI), and who has been previously convicted of DUI within the preceding 7 years. The bill would provide for a 5-day impoundment of that vehicle if the person has been convicted of DUI once within the preceding 7 years, and a 15-day impoundment if the person has been convicted of DUI 2 or more times within the preceding 7 years, subject to a hearing and certain exceptions.

The bill would prescribe procedures to be followed for the release of the vehicle prior to the end of the impoundment period, including a requirement that a legal owner who has obtained possession of the impounded vehicle not relinquish the vehicle to the registered owner until after the termination of the impoundment period and until after the registered owner has presented a valid driver's license or valid temporary driver's license to the legal owner. Because a violation of that requirement and certain other requirements and restrictions

imposed by the bill would be an infraction, the bill would impose a state-mandated local program by creating a new crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 14602.8 is added to the Vehicle Code,  
2 to read:  
3 14602.8. (a) (1) If a peace officer determines that a person  
4 has been convicted of a violation of Section 23140, 23152, or  
5 23153, that the violation occurred within the preceding seven  
6 years, and that one or more of the following circumstances  
7 applies to that person, the officer may immediately cause the  
8 removal and seizure of the vehicle that the person was driving,  
9 under either of the following circumstances:  
10 (A) The person was driving a vehicle when the person had 0.10  
11 percent or more, by weight, of alcohol in his or her blood.  
12 (B) The person driving the vehicle refused to submit to or  
13 complete a chemical test requested by the peace officer.  
14 (2) A vehicle impounded pursuant to paragraph (1) shall be  
15 impounded for the following period of time:  
16 (A) Five days, if the person has been convicted once of  
17 violating Section 23140, 23152, or 23153, and the violation  
18 occurred within the preceding seven years.  
19 (B) Fifteen days, if the person has been convicted two or more  
20 times of violating Section 23140, 23152, or 23153, or any  
21 combination thereof, and the violations occurred within the  
22 preceding seven years.  
23 (3) Within two working days after impoundment, the  
24 impounding agency shall send a notice by certified mail, return  
25 receipt requested, to the legal owner of the vehicle, at the address  
26 obtained from the department, informing the owner that the  
27 vehicle has been impounded. Failure to notify the legal owner

1 within two working days shall prohibit the impounding agency  
2 from charging for more than five days' impoundment when the  
3 legal owner redeems the impounded vehicle. The impounding  
4 agency shall maintain a published telephone number that  
5 provides information 24 hours a day regarding the impoundment  
6 of vehicles and the rights of a registered owner to request a  
7 hearing.

8 (b) The registered and legal owner of a vehicle that is removed  
9 and seized under subdivision (a) or his or her agent shall be  
10 provided the opportunity for a storage hearing to determine the  
11 validity of, or consider any mitigating circumstances attendant to,  
12 the storage, in accordance with Section 22852.

13 (c) Any period during which a vehicle is subjected to storage  
14 under this section shall be included as part of the period of  
15 impoundment ordered by the court under Section 23594.

16 (d) (1) The impounding agency shall release the vehicle to the  
17 registered owner or his or her agent prior to the end of the  
18 impoundment period under any of the following circumstances:

19 (A) When the vehicle is a stolen vehicle.

20 (B) When the vehicle is subject to bailment and is driven by an  
21 unlicensed employee of a business establishment, including a  
22 parking service or repair garage.

23 (C) When the driver of the vehicle is not the sole registered  
24 owner of the vehicle and the vehicle is being released to another  
25 registered owner of the vehicle who agrees not to allow the driver  
26 to use the vehicle until after the end of the impoundment period.

27 (2) A vehicle shall not be released pursuant to this subdivision  
28 without presentation of the registered owner's or agent's currently  
29 valid driver's license to operate the vehicle and proof of current  
30 vehicle registration, or upon order of a court.

31 (e) The registered owner or his or her agent is responsible for  
32 all towing and storage charges related to the impoundment, and  
33 any administrative charges authorized under Section 22850.5.

34 (f) A vehicle removed and seized under subdivision (a) shall be  
35 released to the legal owner of the vehicle or the legal owner's  
36 agent prior to the end of the impoundment period if all of the  
37 following conditions are met:

38 (1) The legal owner is a motor vehicle dealer, bank, credit  
39 union, acceptance corporation, or other licensed financial  
40 institution legally operating in this state, or is another person who

1 is not the registered owner and holds a security interest in the  
2 vehicle.

3 (2) The legal owner or the legal owner's agent pays all towing  
4 and storage fees related to the seizure of the vehicle. A lien sale  
5 processing fee shall not be charged to the legal owner who  
6 redeems the vehicle prior to the 10th day of impoundment. The  
7 impounding authority or any person having possession of the  
8 vehicle shall not collect from the legal owner of the type  
9 specified in paragraph (1), or the legal owner's agent any  
10 administrative charges imposed pursuant to Section 22850.5  
11 unless the legal owner voluntarily requested a poststorage  
12 hearing.

13 (3) (A) The legal owner or the legal owner's agent presents  
14 either lawful foreclosure documents or an affidavit of  
15 repossession for the vehicle, and a security agreement or title  
16 showing proof of legal ownership for the vehicle. All presented  
17 documents may be originals, photocopies, or facsimile copies, or  
18 may be transmitted electronically. The impounding agency shall  
19 not require a document to be notarized. The impounding agency  
20 may require the agent of the legal owner to produce a photocopy  
21 or facsimile copy of its repossession agency license or  
22 registration issued pursuant to Chapter 11 (commencing with  
23 Section 7500) of Division 3 of the Business and Professions  
24 Code, or to demonstrate, to the satisfaction of the impounding  
25 agency, that the agent is exempt from licensure pursuant to  
26 Section 7500.2 or 7500.3 of the Business and Professions Code.

27 (B) Administrative costs authorized under subdivision (a) of  
28 Section 22850.5 shall not be charged to the legal owner of the  
29 type specified in paragraph (1), who redeems the vehicle unless  
30 the legal owner voluntarily requests a poststorage hearing. A city,  
31 county, city or county, or state agency shall not require a legal  
32 owner or a legal owner's agent to request a poststorage hearing as  
33 a requirement for release of the vehicle to the legal owner or the  
34 legal owner's agent. The impounding agency shall not require  
35 any documents other than those specified in this paragraph. The  
36 impounding agency shall not require any documents to be  
37 notarized.

38 (C) As used in this paragraph, "foreclosure documents" means  
39 an "assignment" as that term is defined in subdivision (o) of  
40 Section 7500.1 of the Business and Professions Code.

(g) (1) A legal owner or the legal owner's agent who obtains release of the vehicle pursuant to subdivision (f) may not release the vehicle to the registered owner of the vehicle or any agents of the registered owner, unless the registered owner is a rental car agency, until after the termination of the impoundment period.

(2) The legal owner or the legal owner's agent shall not relinquish the vehicle to the registered owner until the registered owner or that owner's agent presents his or her valid driver's license or valid temporary driver's license to the legal owner or the legal owner's agent. The legal owner or the legal owner's agent shall make every reasonable effort to ensure that the license presented is valid.

(3) Prior to relinquishing the vehicle, the legal owner may require the registered owner to pay all towing and storage charges related to the impoundment and any administrative charges authorized under Section 22850.5 that were incurred by the legal owner in connection with obtaining custody of the vehicle.

(h) (1) A vehicle removed and seized under subdivision (a) shall be released to a rental car agency prior to the end of the impoundment period if the agency is either the legal owner or registered owner of the vehicle and the agency pays all towing and storage fees related to the seizure of the vehicle.

(2) The owner of a rental vehicle that was seized under this section may continue to rent the vehicle upon recovery of the vehicle. However, the rental car agency shall not rent another vehicle to the driver of the vehicle that was seized until the impoundment period has expired.

(3) The rental car agency may require the person to whom the vehicle was rented to pay all towing and storage charges related to the impoundment and any administrative charges authorized under Section 22850.5 that were incurred by the rental car agency in connection with obtaining custody of the vehicle.

(i) Notwithstanding any other provision of this section, the registered owner, and not the legal owner, shall remain responsible for any towing and storage charges related to the impoundment, any administrative charges authorized under Section 22850.5, and any parking fines, penalties, and administrative fees incurred by the registered owner.

1 (j) The impounding agency is not liable to the registered owner  
2 for the improper release of the vehicle to the legal owner or the  
3 legal owner's agent provided the release complies with this  
4 section.

5 SEC. 2. No reimbursement is required by this act pursuant to  
6 Section 6 of Article XIII B of the California Constitution because  
7 the only costs that may be incurred by a local agency or school  
8 district will be incurred because this act creates a new crime or  
9 infraction, eliminates a crime or infraction, or changes the  
10 penalty for a crime or infraction, within the meaning of Section  
11 17556 of the Government Code, or changes the definition of a  
12 crime within the meaning of Section 6 of Article XIII B of the  
13 California Constitution.